

REMARKS

Claims 1-5, 10-13, and 18-20 are amended, no claims are canceled, and no claims are added; as a result, claims 1-21 are now pending in this application.

No new subject matter has been added by the amendments to claims 1-5, 10-13, and 18-20. Claim 1 is amended to delete the phrase “such as” and a function or functions immediately following the deleted phrase in three instances in the claim. Claims 2-5, 10-13, and 19-20 have been similarly amended to delete one or more instances of the phrase “such as” and the immediately following function(s) in the respective language of the claim.

Claims 10 and 19 are also amended merely to add the phrase “stored on a non-transitory computer readable storage medium that is” to the preamble in each of these claims. Support for these amendments is found for example, but not necessarily limited to, the specification at page 16, line 24 through page 16, line 3.

Claims 18 and 20 are amended merely to add a period at the end of each of the claims.

The Rejection of Claims Under § 101

Claims 10 and 19 remain rejected under 35 U.S.C § 101. The 35 U.S.C. § 101 rejection of claims 10 and 19 is respectfully traversed.

While not necessarily agreeing or admitting that claims 10 and 19, as previously pending in the application, did not comply with the requirements under 35 U.S.C. § 101, in order to proceed to an allowance in the application, claims 10 and 19 have been amended to include, “A computer program product stored on a non-transitory computer readable storage medium . . . ,” in the preamble of each of these claims. It is respectfully submitted that, at least as now amended, claims 10 and 19 comply with the requirements of 35 U.S.C § 101.

Reconsideration and withdrawal of the 35 U.S.C § 101 rejection, and allowance of claims 10 and 19 is respectfully requested.

The Rejection of Claims Under § 112

Claims 1-5, 11, 13 and 19-20 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. The 35 U.S.C. 112, second paragraph rejection of claims 1-5, 11, 13 and 19-20 is respectfully traversed.

Per the Office Action:¹

The term "such as" used in the claim language raises a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. As a result, the metes and bounds cannot be ascertained. Claims 12 and 14-17 are rejected based on their dependence.

While not necessarily agreeing with these statements made in the Office Action related to the basis for the 35 U.S.C. 112, second paragraph, rejection, in order to proceed to an allowance in the application, each of claims 1-5, 10-13, and 19-20 are amended in this response to delete the phrase "such as" in one or more instances in these claims, and one or more functions immediately following these instances of the phrase "such as" in each of claims 1-5, 10-13, and 19-20.

It is therefore submitted that claims 1-5, 10-13, and 19-20, and any claims depending from these claims, comply with the requirements under 35 U.S.C. 112, second paragraph.

Reconsideration and withdrawal of the 35 U.S.C. 112, second paragraph rejection, and allowance of all claims now pending in the application is respectfully requested.

Allowed Claims

The Office Action Summary as included in the Office Action indicates that claims 1-9, 18, 20, and 21 are allowed. However, as noted above, claims 1-5 and 20 were rejected in the Office Action under 35 U.S.C. § 112, second paragraph. Regardless, it is respectfully submitted that the 35 U.S.C. § 101 rejections, and the 35 U.S.C. § 112, second paragraph, rejections presented in the Office Action have been overcome, and therefore all claims now pending in the application, including claims 1-9, 18, 20, and 21, are allowable.

¹ See the Office Action at page 3 in the paragraph under item number 7.

A Notification of Allowance, including an indication of allowance of all claims now pending in the application, is respectfully requested.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (612) 371-2132 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402--0938
(612) 371-2132

Date July 14, 2010

By *Robert B. Madden*
Robert B. Madden
Reg. No. 57,521

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 14th day of July, 2010.

Cheryl L Knapp
CHERYL L. KNAPP